

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:16CR84
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
RICARDO DIAZ,)	
)	
Defendant.)	

The Court has received the Revised Presentence Investigation Report and Addendum ("PSR") and the Defendant's objections¹ (Filing No. 36). The government has not objected to the PSR. The Defendant has also filed a motion for variance and supporting brief (Filing Nos. 37 and 38). See *Order on Sentencing Schedule*, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

Accordingly,

IT IS ORDERED:

1. The Defendant's Position Statement Re: Revised Presentence Investigation Report (Filing No. 36) will be heard at the sentencing hearing;
2. The Court intends to adopt the PSR in all other respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion

¹Filing No. 36 was docketed by defense counsel as "Adoption/Statement Regarding Presentence Report". Upon review of the document, the Court notes that Filing No. 36 contains several objections to the PSR and will be construed as such.

challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, these tentative findings are final;

5. The Defendant's Motion for Variance or Departure from the Sentencing Guidelines (Filing No. 37) will be heard at sentencing; and

6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 2nd day of August, 2016.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge